IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8467 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VINODRAI O GANDHI

Versus

DIRECTOR

Appearance:

1. Special Civil Application No. 8467 of 1999

MR RK MISHRA for Petitioner No. 1

MRS SUMAN KHARE for Petitioner No. 1

MR GORI, AGP for Respondents

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 19/12/2003

ORAL JUDGEMENT

Heard learned advocate Mr. R.K.Mishra for petitioner and learned AGP Mr. Gori appearing on behalf

of respondents.

2. The grievance of the petitioner is that the amount of gratuity has been withheld and released subsequently, therefore he is entitled the amount of interest upon the delayed payment of retirement benefit. The affidavit-in-reply has been filed by the respondents wherein, why delay has occurred, has been explained in paragraphs 4 to 7 which are quoted as under:

"(4) I say that this office was in receipt of the deemed order on 27.11.1997. The petitioner Mr. V.O.Gandhi, O.S. was on duty up to 31st December, 1997. P.P.O. was issued on 12.12.1997 and part of the Gratuity amount of Rs.5101 was withheld only because of nonavailability of no due certificate. The same was received by this office on 31.12.1997. I say that on getting the same this office wrote a letter to DPP Office, Ahmedabad on 23.1.1998 under copy to the petitioner stating that the said gratuity was released on 4.12.1999.

(5) I say that on receipt of the order deemed date on 18.11.1997 fixation was done, vide office order dated 23.9.1999. A copy of the same was also sent to the petitioner. The said fixation was submitted to the local pay verification authority vide office order dated 16.11.1999 along with the service book of the petitioner. The Local Fund Pay Verification authority sent the same back with query on 2.12.1999. Hereto annexed and marked Annexure-R-1 is the copy of the said communication.

(6) I further say that the letter from DPP for submission of Service Book along with No Due Certificate, was received from the petitioner on 3.8.1998 by this office. At that time, the service book was lying with the local fund verification authority and as such it was not possible for this office to submit of the papers to the D.P.P.

(7) I say that the Legal Notice dated 12.4.1999 from the petitioner was received by this office on 14.5.1999. I say that the amount of gratuity of Rs.5101 was withheld only because of non-availability of the no due certificate. As soon as certificate was received by this office on 31.12.1997 this office submitted

proposal to D.P.P., Ahmedabad to release remaining amount of gratuity on 23.1.1998. And the D.P.P. ordered to release the gratuity on 4.12.1999. In view of the aforesaid facts, no grievance of the petitioner survives. Therefore, the petition may be disposed of accordingly."

3. In view of detailed reasons given by the department and the fact that the amount of gratuity has been subsequently released by the department and, there was some administrative necessity to verify the record and require no due certificate from the petitioner and that is how some delay has occurred which is considered to be a normal administrative delay without any deliberate intention on the part of the respondent and, therefore, according to my opinion petitioner is not entitled to any amount of interest upon the delayed payment of gratuity which has been released subsequently by the department and therefore, considering this part there is no substance in the present petition, accordingly present petition is dismissed. Rule is discharged. No order as to costs.

(H.K.Rathod,J)

Jayanti*